

SENATE BILL 2506

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 47
and Title 66, relative to gift certificates.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-127, is amended by deleting the section and substituting instead the following:

(a) As used in this section:

(1) "Financial institution" means a bank as defined in § 45-2-107, a savings and loan association as defined in § 45-3-104, or a credit union subject to title 45, chapter 4;

(2) "Gift certificate":

(A) Means a record, including a prepaid debit card used as a gift card or stored value card, that is provided for paid consideration in advance of usage and that indicates a promise by the issuer or seller of the record that goods or services must be provided to the possessor of the record for the value that is shown on the record or contained within the record by means of a microprocessor chip, magnetic stripe, bar code, or other electronic information storage device; and

(B) Does not include:

(i) Prepaid telecommunications and technology cards, including prepaid telephone calling cards, prepaid technical support cards, and prepaid internet disks that have been distributed to, or purchased by, a consumer;

(ii) A coupon provided to a consumer pursuant to any award, loyalty, or promotion program without any money or consideration being given in exchange for the card;

(iii) A card that is usable with multiple sellers of goods or services; or

(iv) A credit or debit card issued by a financial institution backed by actual funds deposited in the institution; and

(3) "Issuer" means an individual or legal entity that is engaged in the business of offering services or goods for sale at retail.

(b)

(1) An issuer may allow customers to purchase gift certificates.

(2) The value represented by the gift certificate belongs to the possessor, to the extent provided by law, and not to the issuer.

(3) Unless otherwise provided in federal law, a gift certificate is deemed trust property of the possessor if the issuer of the gift certificate declares bankruptcy after issuing or selling the gift certificate.

(c) Except as provided in subsection (d), no issuer of gift certificates shall:

(1) Charge an activation or issuance fee that exceeds the lesser of ten percent (10%) of the face value of the gift certificate or five dollars (\$5.00); or

(2) Charge any fee, including a service fee for dormancy, latency, or inactivity, to the customer after purchase of the gift certificate.

(d) Subsection (c) does not apply to a gift certificate that is:

(1) Not marketed to the general public;

(2) Sold below face value at a volume discount to employers or given or sold below face value to nonprofit or charitable organizations for fundraising purposes;

(3) Sold by a nonprofit or charitable organization for fundraising purposes;

(4) Given to an employee by an employer, if use of the gift certificate is limited to the employer's business establishment, including a group of merchants that is affiliated with the business establishment;

(5) Sold solely for admission to an event if an expiration date appears on the gift certificate; or

(6) Issued by an employer to an employee in recognition of services performed by the employee.

(e)

(1) The date of issuance of a gift certificate must be clearly printed upon the sales receipt transferred to the purchaser of the gift certificate upon the completed transaction.

(2) The expiration date must be clearly identified on the face of the gift certificate and must not be less than five (5) years after the date of issuance. However, the expiration date of certificates issued only in paper form must not be less than two (2) years after the date of issuance. If the gift certificate does not have an expiration date, the gift certificate is valid in perpetuity.

(f) If the original value of the gift certificate was more than five dollars (\$5.00), any remaining value is less than five dollars (\$5.00), and the possessor of the gift certificate requests cash for the remainder, the issuer or seller shall redeem the gift certificate for cash.

(g) A violation of this section is an unfair or deceptive act or practice in the conduct of trade or commerce that constitutes a violation of this part.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to gift certificates sold or issued on or after the effective date of this act.